

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**ANTHONY MONEYHAM,**  
**Plaintiff**

**v.**

**UNITED STATES,**  
**Defendant**

**: No. 3:16cv1172**  
**:**  
**: (Judge Munley)**  
**:**  
**: (Magistrate Judge Saporito)**  
**:**  
**:**

**ORDER**

**AND NOW**, to wit, this 27th day of September 2017, it is **HEREBY**  
**ORDERED** as follows:

1. Plaintiff's objection to the Report and Recommendation (Doc. 32) is  
**OVERRULED**;
2. The Report and Recommendation of Magistrate Judge Saporito (Doc.  
31) is **ADOPTED**;
3. Defendant's motion to dismiss, or in the alternative, motion for summary  
judgment (Doc. 17) is **GRANTED in part and DENIED in part**.
4. Plaintiff's negligence claim concerning the denial of medical care over a  
thirteen day period between November 20, 2014, and December 3, 2014, and his  
assault and battery claims arising out of the intentional conduct of EMT Potter  
and EMT Barth are **DISMISSED** *sua sponte* for lack of subject matter jurisdiction;

5. The clerk is directed to enter **JUDGMENT** in favor of the United States with respect to plaintiff's negligence claim concerning the denial of immediate medical care for injuries suffered during the incident at his cell door on November 20, 2014;

6. The motion for summary judgment is **DENIED** with regard to plaintiff's assault and battery claims arising from the conduct of correctional officers Lt. Scott, Lt. Seeba, Officer Anderson, Officer Arnold, Officer Missigman, Officer Sullivan, and two unidentified correctional officers on November 20, 2014, and his use of force claim arising from the application of excessively tight restraints; and

7. The Clerk of Court is directed to remand this case to Magistrate Judge Saporito for further proceedings consistent with the accompanying memorandum.

**BY THE COURT:**

**s/ James M. Munley**  
**JUDGE JAMES M. MUNLEY**  
**United States District Court**